IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)

FRIDAY, THE SEVENTEENTH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT
THE HON'BLE MR JUSTICE V.V.S.RAO

WRIT PETITION NO.6960 of 2003

Between:

1 S.Tarun Rao Naidu, S/o. S. Ashok Rao Naidu,
R/o. Sirupur Kagaz Nagar, Adilabad Dist.
2 Dilip Kumar Singh, S/o. Birendra Kumar Singh,
R/o. Sirupur Kagaz Nagar, Adilabad Dist.
3 Mohd. Faraz Khan, S/o. Mohd. Moazzam Khan,
R/o. Sirupur Kagaz Nagar, Adilabad Dist.
4 Anwarul Haque, S/o. Hazarat Ali,
R/o. Sirupur Kagaz Nagar, Adilabad Dist.
5 Parhan Ahmed Khan, S/o. Ejaz Ahmed Khan,
R/o. Sirupur Kagaz Nagar, Adilabad Dist.
6 Chandra Madhav, S/o. Shree Ghanshyam pal, Singh,
R/o. Sirupur Kagaz Nagar, Adilabad Dist.
7 Ateeb Ali Khan, S/o. Ashraf Ali Khan,
R/o. Sirupur Kagaz Nagar, Adilabad Dist.
8 Muddessin Habib Mustefa, S/o. Wasiuddin,
R/o. Sirupur Kagaz Nagar, Adilabad Dist.

...PETITIONERS

AND

1. A.P. State Council Of Higher Education, Government of Andhra Pradesh, Represented by its Secretary and two others.
2. Jawaharlal Nehru Technological University, Rep.by its Registrar, Hyderabad.
3. J.S.N. College of Engineering & Technology,
Sirpur-Kagaznagar, Adilabad District.

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue an appropriate writ, order or direction, more particularly one in the nature of Writ of Mandamus declaring the

proceedings of the 1st respondent in APSCHE/CETS/EAMCET/02/2002 dated 13.04.2003 deleting the names of the petitioners from the approved list as illegal, null and void, unconstitutional and against the principles of natural justice and to issue consequential direction to the respondents to permit the petitioners to complete the four years B.Tech, course under respondents 2 and 3.

Counsel for the Petitioner: MR.M.S.PRASAD

Counsel for the Respondent No.1: MR.K.RAMESH BABU, SC FOR A.P.STATE COUNCIL OF HIGHER EDUCATION..

Counsel for the Respondent No.2: M/SC.KODANDA RAM

Counsel for the Respondent No.3: NONE APPEARED

The Court made the following:

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ORDER:

The eight petitioners filed the instant Writ Petition challenging the proceedings, dated 13.04.2003 of A.P.State Council for Higher Education, the first respondent herein (hereafter called 'the Council'), whereby and whereunder, the Council deleted the names of the petitioners from the approved list of candidates admitted in First Year B.Tech (Computer Science & Engineering) for the academic year 2002-2003 in the third respondent-College. The disapproval is for the reason that the petitioners herein failed to produce the Residential Certificate in spite of the clarification being sought from the third respondent-College.

This Court while admitting the Writ Petition on 18.04.2004 passed the following order in W.P.M.P.No.9054 of 2002.

> There shall be interim direction to the second respondent to permit the petitioners to appear for B.Tech., I year examination commencing from 21.04.2003. In the event the objections raised by the A.P.State Council for Higher Education are not complied with, the examination shall stand cancelled and the petitioners shall not claim any equities. It is also further ordered that the examination papers shall be kept in sealed cover and shall not be subjected to any valuation, until further orders on this application.

In the counter-affidavit filed by the learned standing counsel for the first respondent, it is stated that as per the A.P. Professional Educational Institutions (Regulation of Admission into Under-Graduate Professional Courses through Common Entrance Test) Rules, 1993 ('the Rules' for brevity) promulgated vide G.O.Ms.No.184, Education (EC-2), Dt.20.08.1993, a person seeking admission should comply with the eligibility criteria laid down in the Rules including the provision of Residential Certificate to satisfy local/non-local status requirements as per the A.P. Educational Institutions (Regulation on Admissions) Order, 1974 (hereafter called as 'the Presidential Order'). The counsel also states that while making admissions to Educational Institutions the production of the Residential Certificate becomes necessary to decide whether the candidate is a local candidate or a non-local candidate.

Rule 8 of the Rules contains regulations governing reservations on admission. Rule 8A reads as under.

> **8A. Minority Educational Institutions:-** (i) In the academic year (1995-96), fifty percent of the total intake in minority Professional Colleges i.e., Medical and Engineering Colleges shall be filled up by candidates selected by the competent authority on the basis of the common merit list. The candidates selected shall be distributed equally in free seats as well as in payment seats in the order of merit. The remaining fifty percent shall be filled up by the management of such minority

Professional Colleges from the candidates belonging to the minority community on the basis of merit. Such merit shall be on the basis of:

(a) Ranking in Intermediate Examination; or
(b) Ranking in EAMCET Examination; or
(c) Ranking in the test to be conducted by the management.

(ii) Fifty percent of seats permitted to be filled by the minority Professional Colleges under sub-regulation (i) shall be equally distributed between free and payment seats.

(iii) After completion of admissions, each minority Professional College shall submit to the competent authority the statements containing full particulars of students admitted under this regulation. The competent authority shall verify the correctness of the statements and if any irregularity is noticed it shall call upon such Professional Colleges to rectify the same.

(iv) The Competent Authority shall conduct the verification keeping in view of the objective that the minority Professional Colleges are equally committed to promote excellence of the Professional Colleges as a vehicle of general secular education.

The above Rule on which reliance is placed in support of the contention of the counsel does not require the Residential Certificate to be produced by the candidate for admission to Minority Professional College. Be that a it is, no Government Order is placed before this Court which required the candidate admitted in one of the seats reserved for management or reserved for Non-Resident Indians, should produce a Residential Certificate. When a student seeks admission to a seat reserved for Non-Resident Indians (NRI) quota, it presupposes that such a person is seeking admission to a seat, which is not reserved for local candidates as per the Presidential Order. An inference therefore can be drawn that NRI seats are meant for those students who do not appear for EAMCET or who are not ordinarily residents of India. It is denied before the Court that as per the relevant orders, private educational institution is entitled to admit non-NRI students in the left over NRI seats quota if no NRI is coming forward to take admission. In this case that is precisely what was done. The petitioners were admitted either in management quota or in NRI quota. Therefore, there is no necessity for production of Residential Certificate issued by any Revenue authority. Further, as rightly pointed out by both the counsel, the petitioners have already completed two years of B.Tech. course and they are in the first semester of third year. Therefore, at this point of time, this Court is not inclined to permit the Council to disapprove the admission of the petitioners in the third respondent-College. The Writ Petition is, therefore, disposed of directing the respondents to continue the petitioners to complete the B.Tech course in the third respondent-College.

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(V.V.S.RAO, J)

17th September 2004
RRB

ASSISTANT REGISTRAR

//True Copy//

SECTION OFFICER

Copy To:

1. The Secretary, A.P. State Council of Higher Education, Government of Andhra Pradesh, Hyderabad.
2. The Registrar, JawAharlal Nehru Technological University, Hyderabad.
3. The Principal, J.S.N. College of Engineering & Technology, Sirpur-Kagaznagar, Adilabad District.
4. Two CD copies.